

APR 18 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS ALEXANDER DUENAS-
ALVAREZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74471

Agency No. A72-984-337

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Luis Alexander Duenas-Alvarez, a native and citizen of Peru, petitions pro
se for review of the Board of Immigration Appeals' dismissal of his appeal of an

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's order of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252.

The IJ found that Duenas-Alvarez's conviction for taking a vehicle without consent in violation of California Vehicle Code § 10851(a) categorically met the definition of a theft offense and, as such, qualified as an aggravated felony under 8 U.S.C. § 1101(a)(43). As the government notes, we recently held that a violation of section 10851(a) does not categorically qualify as a theft offense because that section is broader than the generic definition of a theft offense under 8 U.S.C. § 1101(a)(3)(G). *See Penuliar v. Ashcroft*, 435 F.3d 961 (9th Cir. 2006).

Accordingly, we remand this petition to the Board for further proceedings in light of *Penuliar*.

REMANDED.